

UNITED STATES DISTRICT COURT
WESTERN DISTRICT of TEXAS
SAN ANTONIO DIVISION

FILED

JUL 17 2009

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXA
BY *[Signature]* DEPUTY CLERK

UNITED STATES of AMERICA,

Plaintiff

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v.

BERNAL RUIZ,

Defendant

§

Criminal Case
No. SA-1-CR-138-OG

ORDER

Before the Court is Defendant Bernal Ruiz' pro se Motion for Modification of Sentence (Docket Entry # 62) and Counsel's Motion to Withdraw (Docket Entry # 67).

Defendant Ruiz was convicted of possession with intent to distribute more than 50 grams of cocaine base in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A), and was sentenced to a mandatory minimum sentence of 120 months. Defendant moves pro se for modification of his sentence pursuant to Amendment 706, effective November 1, 2007, which amended the Sentencing Guideline ranges applicable to offenses involving cocaine base. However, because Defendant was sentenced to a mandatory minimum sentence, Sentencing Guideline Amendment 706 will have no effect on his sentence, and thus Defendant is not eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(C)(2). *See U.S. v. Reece*, No. 8-20116, 2008 WL 4580086 (5th Cir., Oct. 15, 2008).

Accordingly, Defendant Ruiz' pro se Motion for Modification of Sentence (Docket Entry # 62) is DENIED.

Counsel Rafael Leal's Motion for Leave to Withdraw As Counsel (Docket Entry # 67) is GRANTED. Counsel's representation in this matter is concluded.

DATED: July *16*, 2009

[Signature]

ORLANDO L. GARCIA
United States District Judge